

34364
DO

SERVICE DATE - JANUARY 8, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 606X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN ALLEGHENY COUNTY, PA

Decided: January 7, 2004

By decision and notice of interim trail use or abandonment (NITU) served on June 14, 2002 (June 2002 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT) of a 2.1-mile line of railroad in its Northeast Region, Baltimore Division, P&W Subdivision, extending between milepost BFH 0.0 and milepost BFH 2.1, in Pittsburgh, Allegheny County, PA, subject to trail use, historic preservation and standard employee protective conditions. The June 2002 decision authorized the City of Pittsburgh, PA (Pittsburgh) to negotiate with CSXT for interim trail use/rail banking for the 1.6-mile portion of the right-of-way (ROW) between milepost BFH 0.5 and milepost BFH 2.1. Subsequently, by decision served July 12, 2002, the NITU was modified to provide a similar period for the Borough of Millvale (Millvale) to negotiate an interim trail use/rail banking agreement over the remaining 0.5-mile portion of the rail line between milepost BFH 0.0 and milepost BFH 0.5. The NITU negotiating periods were due to expire on December 11, 2002, for Pittsburgh, and on January 8, 2003, for Millvale, but both negotiating periods were extended through July 8, 2003, by decision served December 9, 2002. The June 2002 decision also stated that, if consummation has not been effected by the filing of a notice of consummation by June 14, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

On August 13, 2003, CSXT filed a request to extend the time to consummate the abandonment and to file its notice of consummation. By decision served August 26, 2003, the due date was extended to January 8, 2004.

On January 6, 2004, CSXT requested a further extension, until July 8, 2004, of the deadline for consummating the abandonment and for filing its notice of consummation. The request will be granted. The Board's regulations at 49 CFR 1152.29(e)(2) require the filing of a notice of consummation within 1 year from the service date of the authorizing of an abandonment, but only if there are no legal or regulatory barriers to consummation at that time. The historic preservation condition imposed by the Board in this proceeding has not yet been satisfied. Pursuant to 49 CFR 1152.29(e)(2), CSXT has until 60 days following the removal of the condition in which to file a notice of consummation. In order to provide certainty to CSXT,

however, the Board will provide that the notice of consummation need not be filed until July 8, 2004.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request for an extension of time until July 8, 2004, to exercise the abandonment authority is granted.
2. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary